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LETTER DATED 14 JULY 1994 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to paragraph 6 of Security Council resolution 827 (1993) of 25 May 1993, whereby the Council decided that the determination of the seat of the International Tribunal would be subject to the conclusion of appropriate arrangements between the United Nations and the Netherlands acceptable to the Council.

Following extensive negotiations between representatives of the United Nations and the Government of the Kingdom of the Netherlands and representatives of Aegon Nederland nv., instruments concerning the headquarters of the Tribunal and the lease of its premises have been initialled. I am satisfied that in their present form these instruments constitute acceptable arrangements within the meaning of paragraph 6 of Security Council resolution 827 (1993).

Copies of the Agreement between the United Nations and the Kingdom of the Netherlands Concerning the Headquarters of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (see annex) and the Agreement for Tenancy of Churchillplein 1, the Hague,* are attached for the information of the Council.

I would be grateful if you could confirm to me that the Security Council has found these arrangements acceptable and that the seat of the Tribunal has been determined to be at The Hague.

(Signed) Boutros BOUTROS-GHALI

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* The text of the Agreement for Tenancy, may be consulted in room S-3520.

Annex

PROTOCOL OF DISCUSSIONS

Delegations representing the Government of the Kingdom of the Netherlands and the United Nations met in New York on 26 and 27 May 1994 in order to discuss the conclusion of an Agreement Concerning the Headquarters of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law.

Agreement was reached on the text for such an Agreement. This text, as initialed by the Chairmen of both delegations, is attached to this Protocol.

For the Government of the
Kingdom of the Netherlands

For the United Nations

New York, 27 May 1994

AGREEMENT
BETWEEN
THE UNITED NATIONS
AND
THE KINGDOM OF THE NETHERLANDS
CONCERNING THE HEADQUARTERS OF THE INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF THE FORMER YUGOSLAVIA SINCE 1991

The United Nations and the Kingdom of the Netherlands,

Whereas the Security Council acting under Chapter VII of the Charter of the United Nations decided, by paragraph 1 of its resolution 808 (1993) of 22 February 1993, inter alia "that an international tribunal shall be established for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991";

Whereas the International Tribunal is established as a subsidiary organ within the terms of Article 29 of the Charter of the United Nations;

Whereas the Security Council, in paragraph 6 of its resolution 827(1993) of 25 May 1993 further inter alia decided that "the determination of the seat of the International Tribunal is subject to the conclusion of appropriate arrangements between the United Nations and the Netherlands acceptable to the Council";

Whereas the Statute of the International Tribunal, in its Article 31, provides that "the International Tribunal shall have its seat at The Hague";

Whereas the United Nations and the Kingdom of the Netherlands wish to conclude an Agreement regulating matters arising from the establishment and necessary for the proper functioning of the International Tribunal in the Kingdom of the Netherlands;

Have agreed as follows.

/...

ARTICLE I

DEFINITIONS

For the purpose of the present Agreement, the following definitions shall apply:

(a) "the Tribunal" means the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, established by the Security Council pursuant to its resolutions 808(1993) and 827(1993);

(b) "the premises of the Tribunal" means buildings, parts of buildings and areas, including installations and facilities made available to, maintained, occupied or used by the Tribunal in the host country in connection with its functions and purposes;

(c) "the host country" means the Kingdom of the Netherlands;

(d) "the Government" means the Government of the Kingdom of the Netherlands;

(e) "the United Nations" means the United Nations, an international governmental organization established under the Charter of the United Nations;

(f) "the Security Council" means the Security Council of the United Nations;

(g) "the Secretary-General" means the Secretary-General of the United Nations;

(h) "the competent authorities" means national, provincial, municipal and other competent authorities under the law of the host country;

/...

(i) "the Statute" means the Statute of the Tribunal adopted by the Security Council by its resolution 827(1993);

(j) "the Judges" means the Judges of the Tribunal as elected by the General Assembly of the United Nations pursuant to Article 13 of the Statute;

(k) "the President" means the President of the Tribunal as referred to in Article 14 of the Statute;

(l) "the Prosecutor" means the Prosecutor of the Tribunal as appointed by the Security Council pursuant to Article 16 of the Statute;

(m) "the Registrar" means the Registrar of the Tribunal as appointed by the Secretary-General pursuant to Article 17 of the Statute;

(n) "the officials of the Tribunal" means the staff of the Office of the Prosecutor as referred to in paragraph 5 of Article 16 of the Statute and the staff of the Registry as referred to in paragraph 4 of Article 17 of the the Statute;

(o) "persons performing missions for the Tribunal" means persons performing certain missions for the Tribunal in the investigation or prosecution or in the judicial or appellate proceedings;

(p) "the witnesses" means persons referred to as such in the Statute;

(q) "experts" means persons called at the instance of the Tribunal, the Prosecutor, the suspect or the accused to present testimony based on special knowledge, skills, experience or training;

(r) "counsel" means a person referred to as such in the Statute;

(s) "the suspect" means a person referred to as such in the Statute;

(t) "the accused" means a person referred to as such in the Statute;

(u) "the General Convention" means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946, to which the Kingdom of the Netherlands acceded on 19 April 1948;

(v) "the Vienna Convention" means the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961, to which the Kingdom of the Netherlands acceded on 7 September 1984;

(w) "the regulations" means the regulations adopted by the Tribunal pursuant to Article VI, paragraph 3 of this Agreement.

ARTICLE II
PURPOSE AND SCOPE OF THE AGREEMENT

This Agreement shall regulate matters relating to or arising out of the establishment and the proper functioning of the Tribunal in the Kingdom of the Netherlands.

ARTICLE III
JURIDICAL PERSONALITY OF THE TRIBUNAL

1. The Tribunal shall possess in the host country full juridical personality. This shall, in particular, include the capacity:

a) to contract;

b) to acquire and dispose of movable and immovable property;

c) to institute legal proceedings.

2. For the purpose of this Article the Tribunal shall be represented by the Registrar.

ARTICLE IV
APPLICATION OF THE GENERAL AND VIENNA CONVENTIONS

The General Convention and the Vienna Convention shall be applicable mutatis mutandis to the Tribunal, its property, funds and assets, to the premises of the Tribunal, to the Judges, the Prosecutor and the Registrar, the officials of the Tribunal and persons performing missions for the Tribunal.

ARTICLE V
INVIOLABILITY OF THE PREMISES OF THE TRIBUNAL

1. The premises of the Tribunal shall be inviolable. The competent authorities shall take whatever action may be necessary to ensure that the Tribunal shall not be dispossessed of all or any part of the premises of the Tribunal without the express consent of the Tribunal. The property, funds and assets of the Tribunal, wherever located and by whomsoever held, shall be immune from search, seizure, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

2. The competent authorities shall not enter the premises of the Tribunal to perform any official duty, except with the express consent, or at the request of, the Registrar or an official designated by him. Judicial actions and the service or execution of legal process, including the seizure of private property, cannot be enforced on the premises of the Tribunal except with the consent of and in accordance with conditions approved by the Registrar.

3. In case of fire or other emergency requiring prompt protective action, or in the event that the competent authorities have reasonable cause to believe that such an emergency has occured or is about to occur on the premises of the Tribunal, the consent of the Registrar, or an official designated by him, to any necessary entry into the premises of the Tribunal shall be presumed if neither of them can be reached in time.

4. Subject to paragraphs 1, 2 and 3 above, the competent authorities shall take the necessary action to protect the premises of the Tribunal against fire or other emergency.

5. The Tribunal may expel or exclude persons from the premises of the Tribunal for violation of its regulations.

ARTICLE VI
LAW AND AUTHORITY ON THE PREMISES OF THE TRIBUNAL

1. The premises of the Tribunal shall be under the control and authority of the Tribunal, as provided in this Agreement.

2. Except as otherwise provided in this Agreement or in the General Convention, the laws and regulations of the host country shall apply on the premises of the Tribunal.

3. The Tribunal shall have the power to make regulations operative on the premises of the Tribunal for the purpose of establishing therein the conditions in all respects necessary for the full execution of its functions. The Tribunal shall promptly inform the competent authorities of regulations thus enacted in accordance with this paragraph. No law or regulation of the host country which is inconsistent with a regulation of the Tribunal shall, to the extent of such inconsistency, be applicable within the premises of the Tribunal.

4. Any dispute between the Tribunal and the host country, as to whether a regulation of the Tribunal is authorised by this Article, or as to whether a law or regulation of the host country is inconsistent with any regulation of the Tribunal authorised by this Article, shall be promptly settled by the procedure set out in Article XXVIII, paragraph 2 of this Agreement. Pending such settlement, the regulation of the Tribunal shall apply and the law or regulation of the host country shall be inapplicable on the premises of the Tribunal to the extent that the Tribunal claims it to be inconsistent with its regulation.

ARTICLE VII
PROTECTION OF THE PREMISES OF THE TRIBUNAL AND THEIR VICINITY

1. The competent authorities shall exercise due diligence to ensure the security and protection of the Tribunal and to ensure that the tranquility of the Tribunal is not disturbed by the intrusion of persons or groups of persons from outside the premises of the Tribunal or by disturbances in their immediate vicinity and shall provide to the premises of the Tribunal the appropriate protection as may be required.

2. If so requested by the President or the Registrar of the Tribunal, the competent authorities shall provide adequate police force necessary for the preservation of law and order on the premises of the Tribunal or in the immediate vicinity thereof, and for the removal of persons therefrom.

ARTICLE VIII
FUNDS, ASSETS AND OTHER PROPERTY

1. The Tribunal, its funds, assets and other property, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process, except insofar as

in any particular case the Tribunal has expressly waived its immunity. It is understood, however, that no waiver of immunity shall extend to any measure of execution.

2. Without being restricted by financial controls, regulations or moratoria of any kind, the Tribunal:

a) may hold and use funds, gold or negotiable instruments of any kind and maintain and operate accounts in any currency and convert any currency held by it into any other currency;

b) shall be free to transfer its funds, gold or currency from one country to another, or within the host country, to the United Nations or any other agency.

ARTICLE IX
INVIOLABILITY OF ARCHIVES AND ALL DOCUMENTS OF THE TRIBUNAL

The archives of the Tribunal, and in general all documents and materials made available, belonging to or used by it, wherever located in the host country and by whomsoever held, shall be inviolable.

ARTICLE X
EXEMPTION FROM TAXES AND DUTIES

1. Within the scope of its official functions, the Tribunal, its assets, income and other property shall be exempt from all direct taxes, which include inter alia, income tax, capital tax, corporation tax as well as direct taxes levied by local and provincial authorities.

2. The Tribunal shall:

(a) on application be granted exemption from motor-vehicle tax in respect of motor vehicles used for its official activities;

(b) be exempt from stock exchange tax, insurance tax, tax on capital duty and real property transfer tax;

(c) be exempt from all import duties and taxes in respect of goods, including publications and motor vehicles, whose import or export by the Tribunal is necessary for the exercise of its official activities;

(d) be exempt from value-added tax paid on any goods, including motor vehicles, or services of substantial value, which are necessary for its official activities. Such claims for exemption will be made only in respect of goods or services supplied on a recurring basis or involving considerable expenditure;

(e) be exempt from excise duty included in the price of alcoholic beverages, tobacco products and hydrocarbons such as fuel oils and motor fuels purchased by the Tribunal and necssary for its official activities;

(f) be exempt from the Tax on Private Passenger Vehicles and Motorcycles (Belasting van personenauto's en motorrijwielen, BPM) with respect to motor vehicles for its official activities.

3. The exemptions provided for in paragraph 2(d) and (e) above may be granted by way of a refund. The exemptions referred to in paragraph 2 above shall be applied in accordance with the formal requirements of the host country. These requirements, however, shall not affect the general principles laid down in this Article.

4. The provisions of this Article shall not apply to taxes and duties which are considered to be charges for public utility services, provided at a fixed rate according to the amount of services rendered and which can be specifically identified, described and itemized.

5. Goods acquired or imported under paragraph 2 above shall not be sold, given away, or otherwise disposed of, except in accordance with conditions agreed upon with the Government.

ARTICLE XI
COMMUNICATIONS FACILITIES

1. The Tribunal shall enjoy, in respect of its official communications, treatment not less favourable than that accorded by the Government to any diplomatic mission in matters of establishment and operation, priorities, tariffs, charges on mail and cablegrams and on teleprinter, facsimile, telephone and other communications, as well as rates for information to the press and radio.

2. No official correspondence or other communication of the Tribunal shall be subject to censorship by the Government. Such immunity from censorship shall extend to printed matter, photographic and electronic data communications, and other forms of communications as may be used by the Tribunal. The Tribunal shall be entitled to use codes and to dispatch and receive correspondence and other material or communications either by courier or in sealed bags, all of which shall be inviolable and shall have the same privileges and immunities as diplomatic couriers and bags.

3. The Tribunal shall have the right to operate radio and other telecommunications equipment on United Nations registered frequencies and those allocated to it by the Government, between the Tribunal offices, installations, facilities and means of transport, within and outside the host country, and in particular with the International Court of Justice in The Hague, United Nations Headquarters in New York, United Nations Offices in Vienna and Geneva and the territory of the former Yugoslavia.

4. For the fulfilment of its purposes, the Tribunal shall have the right to publish freely and without restrictions within the host country in conformity with this Agreement.

ARTICLE XII

PUBLIC SERVICES FOR THE PREMISES OF THE TRIBUNAL

1. The competent authorities shall secure, on fair conditions and upon the request of the Registrar or on his behalf, the public services needed by the Tribunal such as, but not limited to, postal, telephone and telegraphic services, electricity, water, gas, sewage, collection of waste, fire protection, local transportation and cleaning of public streets.

2. In cases where electricity, water, gas or other services referred to in paragraph 1 above are made available to the Tribunal by the competent authorities, or where the prices thereof are under their control, the rates for such services shall not exceed the lowest comparable rates accorded to essential agencies and organs of the Government.

3. In case of force majeure resulting in a complete or partial disruption of the aforementioned services, the Tribunal shall for the performance of its functions be accorded the priority given to essential agencies and organs of the Government.

4. Upon request of the competent authorities, the Registrar, or an official designated by him, shall make suitable arrangements to enable duly authorized representatives of the appropriate public services to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers on the premises of Tribunal under conditions which shall not unreasonably disturb the carrying out of the functions of the Tribunal. Underground constructions may be undertaken by the competent authorities on the premises of the Tribunal only after consultation with the Registrar, or an official designated by him, and under conditions which shall not disturb the carrying out of the functions of the Tribunal.

ARTICLE XIII
FLAG, EMBLEM AND MARKINGS

The Tribunal shall be entitled to display its flag, emblem and markings on the premises of the Tribunal, and to display its flag on vehicles used for official purposes.

ARTICLE XIV
PRIVILEGES AND IMMUNITIES OF THE JUDGES, THE PROSECUTOR AND THE REGISTRAR

1. The Judges, the Prosecutor and the Registrar shall, together with members of their families forming part of their household and who do not have Netherlands nationality or permanent residence status in the host country, enjoy the privileges and immunities, exemptions and facilities accorded to diplomatic agents, in accordance with international law and in particular under the General Convention and the Vienna Convention. They shall inter alia enjoy:

a) personal inviolability, including immunity from arrest or detention;

b) immunity from criminal, civil and administrative jurisdiction in conformity with the Vienna Convention;

c) inviolability for all papers and documents;

d) exemption from immigration restrictions, alien registration or national service obligations;

e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents.

2. In the event the Tribunal operates a system for the payments of pensions and annuities to former Judges, Prosecutors and Registrars and their dependants, exemption from income tax in the host country shall not apply to such pensions and annuities.

3. Privileges and immunities are accorded to the Judges, the Prosecutor and the Registrar in the interest of the Tribunal and not for the personal benefit of individuals themselves. The right and the duty to waive the immunity in any case where it can be waived without prejudice to the purpose for which it is accorded shall lie, as concerns the Judges, with the Tribunal in accordance with its rules; as concerns the Prosecutor and the Registrar, with the Secretary-General in consultation with the President.

ARTICLE XV

PRIVILEGES AND IMMUNITIES OF OFFICIALS OF THE TRIBUNAL

1. The officials of the Tribunal shall, regardless of their nationality, be accorded the privileges and immunities as provided for in Articles V and VII of the General Convention. They shall inter alia:

a) enjoy immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity. Such immunity shall continue to be accorded after termination of employment with the Tribunal;

b) enjoy exemption from taxation on the salaries and emoluments paid to them by the Tribunal;

c) enjoy immunity from national service obligations;

d) enjoy immunity, together with members of their families forming part of their household, from immigration restrictions and alien registration;

e) be accorded the same privileges in respect of exchange facilities as are accorded to the members of comparable rank of the diplomatic missions established in the host country;

f) be given, together with members of their families forming part of their household, the same repatriation facilities in time of international crisis as diplomatic agents;

g) have the right to import free of duties and taxes, except payments for services, their furniture and effects at the time of first taking up their post in the host country.

2. Internationally-recruited staff of P-5 level and above who do not have Netherlands nationality or permanent residence status in the host country shall, together with members of their families forming part of their household who do not have Netherlands nationality or permanent residence status in the host country, be accorded the privileges, immunities and facilities as are accorded to members of comparable rank of the diplomatic staff of missions accredited to the Government.

3. Internationally-recruited staff shall also be entitled to export with relief from duties and taxes, on the termination of their function in the host country, their furniture and personal effects, including motor vehicles.

4. In the event that the Tribunal operates a system for the payments of pensions and annuities to former officials of the Tribunal and their dependants, exemption from income tax in the host country shall not apply to such pensions and annuities.

5. The privileges and immunities are granted to the officials of the Tribunal in the interest of the Tribunal and not for their personal benefit. The right and the duty to waive

the immunity in any particular case, where it can be waived without prejudice to the purpose for which it is accorded shall lie with the Secretary-General.

6. The rights and entitlements referred to in paragraphs 1(g) and 3 above shall be exercised in accordance with the formal requirements of the host country. These requirements, however, shall not affect the general principles laid down in this Article.

ARTICLE XVI

PERSONNEL RECRUITED LOCALLY AND ASSIGNED TO HOURLY RATES

Personnel recruited by the Tribunal locally and assigned to hourly rates shall be accorded immunity from legal process in respect of words spoken or written and acts performed by them in their official capacity for the Tribunal. Such immunity shall continued to be accorded after termination of employment with the Tribunal. They shall also be accorded such other facilities as may be necessary for the independent exercise of their functions for the Tribunal. The terms and conditions of their employment shall be in accordance with the relevant United Nations resolutions, decisions, regulations, rules and policies.

ARTICLE XVII

PERSONS PERFORMING MISSIONS FOR THE TRIBUNAL

1. Persons performing missions for the Tribunal shall enjoy the privileges, immunities and facilities under Articles VI and VII of the General Convention, which are necessary for the independent exercise of their duties for the Tribunal.

2. The right and the duty to waive the immunity referred to in paragraph 1 above in any particular case where it can be waived without prejudice to the administration of justice by

the Tribunal and the purpose for which it is granted, shall lie with the President of the Tribunal.

ARTICLE XVIII
WITNESSES AND EXPERTS APPEARING BEFORE THE TRIBUNAL

1. Without prejudice to the obligation of the host country to comply with requests for assistance made, or orders issued by, the Tribunal pursuant to Article 29 of its Statute, witnesses and experts appearing from outside the host country on a summons or a request of the Tribunal or the Prosecutor shall not be prosecuted or detained or subjected to any other restriction of their liberty by the authorities of the host country in respect of acts or convictions prior to their entry into the territory of the host country.

2. The immunity provided for in paragraph 1 above shall cease when the witness or expert having had, for a period of fifteen consecutive days from the date when his or her presence is no longer required by the Tribunal or the Prosecutor, an opportunity of leaving, has nevertheless remained in the territory of the host country, or having left it, has returned, unless such return is on another summons or request of the Tribunal or the Prosecutor.

3. Witnesses and experts referred to in paragraph 1 above shall not be subjected by the host country to any measure which may affect the free and independent exercise of their functions for the Tribunal.

ARTICLE XIX
COUNSEL

1. The counsel of a suspect or an accused who has been admitted as such by the Tribunal shall not be subjected by the host country to any measure which may affect the free and independent exercise of his or her functions under the Statute.

2. In particular, the counsel shall, when holding a certificate that he or she has been admitted as a counsel by the Tribunal, be accorded:

(a) exemption from immigration restrictions;

(b) inviolability of all documents relating to the exercise of his or her functions as a counsel of a suspect or accused;

(c) immunity from criminal and civil jurisdiction in respect of words spoken or written and acts performed by them in their official capacity as counsel. Such immunity shall continue to be accorded to them after termination of their functions as a counsel of a suspect or accused.

3. This Article shall be without prejudice to such disciplinary rules as may be applicable to the counsel.

4. The right and the duty to waive the immunity referred to in paragraph 2 above in any particular case where it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which it is granted, shall lie with the Secretary-General.

ARTICLE XX
THE SUSPECT OR ACCUSED

1. The host country shall not exercise its criminal jurisdiction over persons present in its territory, who are to be or have been transferred as a suspect or an accused to the premises of the Tribunal pursuant to a request or an order of the Tribunal, in respect of acts, omissions or convictions prior to their entry into the territory of the host country.

2. The immunity provided for in this Article shall cease when the person, having been acquitted or otherwise released by the Tribunal and having had for a period of fifteen

consecutive days from the date of his or her release an opportunity of leaving, has nevertheless remained in the territory of the host country, or having left it, has returned.

ARTICLE XXI
CO-OPERATION WITH THE COMPETENT AUTHORITIES

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the host country. They also have a duty not to interfere in the internal affairs of the host country.

2. The Tribunal shall cooperate at all times with the competent authorities to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities accorded under this Agreement.

3. The Tribunal shall observe all security directives as agreed with the host country or as issued, in coordination with the United Nations Security Service, by the competent authorities responsible for security conditions within the penitentiary institution of the host country where the Tribunal area for detention is located, as well as all directives of the competent authorities responsible for fire prevention regulations.

ARTICLE XXII
NOTIFICATION

1. The Registrar shall notify the Government of the names and categories of persons referred to in this Agreement, in particular the Judges, the Prosecutors, the officials of the Tribunal, persons performing missions for the Tribunal, counsel admitted by the Tribunal,

witnesses and experts called to appear before the Tribunal or the Prosecutor, and of any change in their status.

2. The Registrar shall also notify the Government of the name and identity of each official of the Tribunal who is entitled to carry fire arms on the premises of the Tribunal, as well as the name, type, caliber and serial number of the arm or arms at his or her disposition.

ARTICLE XXIII
ENTRY INTO, EXIT FROM AND MOVEMENT WITHIN THE HOST COUNTRY

All persons referred to in Article XIV, XV, XVII, XVIII and XIX of this Agreement as notified as such by the Registrar to the Government shall have the right of unimpeded entry into, exit from, and movement within, the host country, as appropriate and for the purposes of the Tribunal. They shall be granted facilities for speedy travel. Visas, entry permits or licenses, where required, shall be granted free of charge and as promptly as possible. The same facilities shall be accorded to persons accompanying witnesses who have been notified as such by the Registrar to the Government.

ARTICLE XXIV
UNITED NATIONS LAISSEZ-PASSER AND CERTIFICATE

1. The Government shall recognise and accept United Nations Laissez-passer as a valid travel document.

2. In accordance with the provisions of Section 26 of the General Convention, the Government shall recognise and accept the United Nations certificate issued to persons travelling on the business of the Tribunal. The Government agrees to issue any required visas on such certificates.

ARTICLE XXV
IDENTIFICATION CARDS

1. At the request of the Tribunal, the Government shall issue identification cards to persons referred to in Articles XIV, XV, XVIII, XIX and XX of this Agreement certifying their status under this Agreement.

2. The Security Service of the Tribunal shall maintain photographic and other appropriate records of the suspect and accused persons referred to in Article XXI.

ARTICLE XXVI
SECURITY, SAFETY AND PROTECTION OF PERSONS REFERRED TO IN THIS AGREEMENT

The competent authorities shall take effective and adequate action which may be required to ensure the appropriate security, safety and protection of persons referred to in this Agreement, indispensable for the proper functioning of the Tribunal, free from interference of any kind.

ARTICLE XXVII
SOCIAL SECURITY AND PENSION FUND

1. Officials of the Tribunal are subject to the United Nations Staff Regulations and Rules and, if they have an appointment of six months' duration or more, become participants in the United Nations Pension Fund. Accordingly, such officials shall be exempt from all compulsory contributions to the Netherlands social security organizations. Consequently, they shall not be covered against the risks described in the Netherlands social security regulations.

2. The provisions of paragraph 1 above shall apply mutatis mutandis to the members of the family forming part of the hosehold of the persons referred to in paragraph 1 above, unless they are employed or self-employed in the host country or receive Netherlands social security benefits.

ARTICLE XXVIII
SETTLEMENT OF DISPUTES

1. The Tribunal shall make provisions for appropriate modes of settlement of:

a) disputes arising out of contracts and other disputes of a private law character to which the Tribunal is a party;

b) disputes involving an official of the Tribunal who, by reason of his or her official position, enjoys immunity, if such immunity has not been waived.

2. Any dispute between the Parties concerning the interpretation or application of this Agreement or the regulations of the Tribunal, which cannot be settled amicably, shall be submitted, at the request of either Party to the dispute, to an arbitral tribunal, composed of three members. Each Party shall appoint one arbitrator and the two arbitrators thus appointed shall together appoint a third arbitrator as their chairman. If one of the Parties fails to appoint its arbitrator and has not proceeded to do so within two months after an invitation from the other Party to make such an appointment, the other Party may request the President of the International Court of Justice to make the necessary appointment. If the two arbitrators are unable to reach agreement, in the two months following their appointment, on the choice of the third arbitrator, either Party may invite the President of the International Court of Justice to make the necessary appointment. The Parties shall draw up a special agreement determining the subject of the dispute. Failing the conclusion of such an agreement within a period of two months from the date on which arbitration was requested, the dispute may be brought before the arbitral tribunal upon application of either Party.

Unless the Parties decide otherwise, the arbitral tribunal shall determine its own procedure. The arbitral tribunal shall reach its decision by a majority of votes on the basis of the applicable rules of international law. In the absence of such rules, it shall decide ex aequo et bono. The decision shall be final and binding on the Parties to the dispute, even if rendered in default of one of the Parties to the dispute

ARTICLE XXIX
FINAL PROVISIONS

1. The provisions of this Agreement shall be complementary to the provisions of the General Convention and the Vienna Convention, the latter Convention only insofar as it is relevant for the diplomatic privileges, immunities and facilities accorded to the appropriate categories of persons referred to in this Agreement. Insofar as any provision of this Agreement and any provisions of the General Convention and the Vienna Convention relate to the same subject matter, each of these provisions shall be applicable and neither shall narrow the effect of the other.

2. This Agreement may be amended by mutual consent at any time at the request of either Party.

3. This Agreement shall cease to be in force if the seat of the Tribunal is removed from the territory of the host country or if the Tribunal is dissolved, except for such provisions as may be applicable in connection with the orderly termination of the operations of the Tribunal at its seat in the host country and the disposition of its property therein, as well as provisions granting immunity from legal process of every kind in respect of words spoken or written or acts done in an official capacity, even after termination of employment with the Tribunal.

4. The provisions of this Agreement will be applied provisionally as from the date of signature.

5. This Agreement shall enter into force on the day after both Parties have notified each other in writing that the legal requirements for entry into force have been complied with.

6. With respect to the Kingdom of the Netherlands, this Agreement shall apply to the part of the Kingdom in Europe only.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this Agreement.

DONE at.....on .....1994 in duplicate, in the English language.

For the Government of the Kingdom of the Netherlands

For the United Nations

DRAFT LETTER OF EXCHANGE BY THE GOVERNMENT OF THE NETHERLANDS

ADDRESSED TO THE UNITED NATIONS

Dear Sir,

On the occasion of the signing of the Agreement between the Kingdom of the Netherlands and the United Nations Concerning the Headquarters of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991, I would like to refer to discussions held between the representatives of the Government of the Kingdom of the Netherlands and the representatives of the United Nations concerning the interpretation and implementation of certain provisions of the Agreement.

I have the honour to confirm on behalf of the Government of the Netherlands the following understanding.

It is the understanding of the Parties that none of the regulations made operative by the Tribunal based on the power given to it under Article VI, paragraph 3, of the Agreement, shall relate to any question of the treatment of the suspect, accused or other persons detained on the premises of the Tribunal; these matters shall be dealt with by the Tribunal in

accordance with its competence under Article 15 of the Statute of the Tribunal adopted by the Security Council by its resolution 827 (1993) of 25 May 1993.

It is the understanding of the Parties that the exemptions, rights and entitlements referred to in Article X, paragraph 2, and Article XV, paragraphs 1(g) and 3, shall be granted in accordance with the formal requirements of the host country which, however, shall not have the effect of depriving the Tribunal or its officials of these exemptions, rights or entitlements or in any way diminishing the extent thereof.

With respect to the provisions of paragraph 1(g), it is understood that the expression "furniture and effects" includes motor vehicles.

It is further the understanding of the Parties that all official motor vehicles of the Tribunal will be covered by the appropriate liability insurance, and that all officials of the Tribunal and persons performing missions, who will own or operate motor vehicles, will be directed to acquire an appropriate insurance against third party risks in the Netherlands.

It is the understanding of the Parties that if so requested by the Tribunal, the competent authorities of the host country shall not create impediments to entry into, exit from and

movement within the Netherlands of the persons referred to in Article XX of the Agreement.

I should be grateful if you could confirm that the above is also the understanding of the United Nations.

DRAFT LETTER OF EXCHANGE BY THE UNITED NATIONS

ADDRESSED TO THE GOVERNMENT OF THE NETHERLANDS

Dear Sir,

I have the honour to acknowledge receipt of Your Excellency's letter of ..... 1994, in which you confirm your Government's understanding regarding the interpretation and implementation of certain provisions of the Agreement between the United Nations and the Kingdom of the Netherlands concerning the Headquarters of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

In accordance with your Your Excellency's request, I wish to confirm, on behalf of the United Nations that the understandings reflected in your above-mentioned letter fully correspond to the views of the United Nations on the subject.